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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,393	03/25/2004	Roger A. Farrara	RAF-001	8987

41313 7590 03/21/2007  
LAW OFFICE OF WILLIAM BODNAR  
1600 HUMBOLDT RD.  
SUITE 4  
CHICO, CA 95928-8100

EXAMINER
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MATTHEWS, TERRELL HOWARD

ART UNIT	PAPER NUMBER
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3654

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/21/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/810,393

Applicant(s)

FARRARA ET AL.

Examiner

Terrell H. Matthews

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 5-7 and 9-11 is/are pending in the application.
- 4a) Of the above claim(s) 1-4 and 8 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 5-7 and 9-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 5 is rejected under 35 U.S.C. 102(e) as being anticipated by McDonald (US-6931792).

Referring claim 5. McDonald discloses a "Universal End Cap". See Figs. 1-12 and respective portions of the specification. McDonald further discloses a cushioning cap (35) for connecting to an end of a substantially rectangular or square arm, said cushioning cap having a substantially open top and comprising: a solid body of resilient material having a plurality of exterior surfaces said body, further comprising: a front section, two adjacent side sections substantially orthogonal to the front section: and a bottom section substantially orthogonal to the side sections and the front section.

Claim 9 is rejected under 35 U.S.C. 102(e) as being anticipated by Carreiro (US-4190988).

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Referring to claim 9. Carreiro discloses an apparatus comprising a end cap (68) with a solid body having a curvilinear shape, at least one exterior surface; and at least once concave interior attachment surface for affixing the cushioning to the curvilinear end of an arm (See at least Fig. 6).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over McDonald (US-6931792) in further view of Lee (US-6805221).

Referring to claims 6-7. McDonald discloses a "Universal End Cap". See Figs. 1-12 and respective portions of the specification. McDonald further discloses a cushioning cap (35) for connecting to an end of a substantially rectangular or square arm, said cushioning cap having a substantially open top and comprising: a solid body of resilient material having a plurality of exterior surfaces said body, further comprising: a front section, two adjacent side sections substantially orthogonal to the front section; and a bottom section substantially orthogonal to the side sections and the front section. Lee discloses a "Ladder Positioning System" as claimed. See Figs. 1-11 and respective portions of the specification. Lee further discloses a lifting arm (14) with an end cap

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(24). Furthermore, Lee discloses that the end cap (24) is provided with an elastomeric pad (31) and that the end cap is provided with an attachment means (26) for affixing the cushioning apparatus (31) to a substantially rectangular arm (14) (See at least Col. 5 l. 20-29 & at least Figs. 2, 11). It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the apparatus of McDonald to include the teachings of Lee and provide a cushioning apparatus of a resilient material comprised of at least one member selected from the group consisting of foam, rubber, sponge foam, polyurethane foam, integral skin foams, rigid closed cell, integral flexible open cell, expanded polystyrene, and compression-molded, closed cell cross-linked polyethylene so that the end cap was more protective and cushioned so that it provided better safety and protection from people and objects coming into contact end cap or arm.

Additionally, it would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the apparatus of McDonald to include indicia on the exterior surface of the cushioning apparatus to indicate which respective side the end cap was supposed to be placed. It should be noted that it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations.

Claims 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carreiro (US-4190988) in further view of Lee (US-6805221).

Referring to claims 10-11. Carreiro discloses an apparatus comprising an end cap (68) with a solid body having a curvilinear shape, at least one exterior surface; and at least once concave interior attachment surface for affixing the cushioning to the curvilinear end of an arm (See at least Fig. 6). Lee discloses a "Ladder Positioning System" as claimed. See Figs. 1-11 and respective portions of the specification. Lee further discloses a lifting arm (14) with an end cap (24). Furthermore, Lee discloses that the end cap (24) is provided with an elastomeric pad (31) and that the end cap is provided with an attachment means (26) for affixing the cushioning apparatus (31) to a substantially rectangular arm (14) (See at least Col. 5 l. 20-29 & at least Figs. 2,11). It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the apparatus of Carreiro to include the teachings of Lee and include cushioning apparatus of a resilient material comprised of at least one member selected from the group consisting of foam, rubber, sponge foam, polyurethane foam, integral skin foams, rigid closed cell, integral flexible open cell, expanded polystyrene, and compression-molded, closed cell cross-linked polyethylene to be attached to the end of an arm so that the arm could be provided with a padded cushion to protect the arm from scratching or interfering with the lifted item in addition to providing a soft cushion for protection against accidents. Additionally, it would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the apparatus of Carreiro to include indicia on the exterior surface of the cushioning apparatus to indicate which respective side the end cap was supposed to be placed. It should be noted that it has been held that a recitation with respect to the manner in which a claimed apparatus is

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intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations.

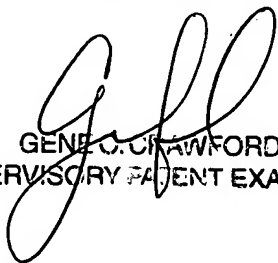
### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Terrell H. Matthews whose telephone number is (571)272-5929. The examiner can normally be reached on M-F 8am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathy Matecki can be reached on (571)-272-6951. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

THM

  
GENE C. CRAWFORD  
SUPERVISORY PATENT EXAMINER

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